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APPLICATION NO.		FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,915	•	02/05/2001	Robert R. Andrews	08261-017001	6193
26161	7590	01/12/2006		EXAMINER	
FISH & R	ICHARI	OSON PC	TRAN, BINH Q		
	P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			ART UNIT	PAPER NUMBER
77111112211	711 0210, 14114 00 110 1022			3748	
				DATE MAILED: 01/12/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

	I A II Alam Na	
	Application No.	Applicant(s)
	09/777,915	ANDREWS ET AL.
Office Action Summary	Examiner	Art Unit
	BINH Q. TRAN	3748
The MAILING DATE of this communication ap Period for Reply	pears on the cover sheet with the c	orrespondence address
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING Description of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period Failure to reply within the set or extended period for reply will, by statut Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATION .136(a). In no event, however, may a reply be tind It will apply and will expire SIX (6) MONTHS from te, cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).
Status		
1) ⊠ Responsive to communication(s) filed on 20 (2a) ⊠ This action is FINAL. 3) □ Since this application is in condition for allowed closed in accordance with the practice under	is action is non-final. ance except for formal matters, pro	
Disposition of Claims	·	
4) ⊠ Claim(s) 1,2,4-7,9,10 and 72-74 is/are pending 4a) Of the above claim(s) is/are withdra 5) □ Claim(s) is/are allowed. 6) ⊠ Claim(s) 1-2,4-7,9-10,72-74 is/are rejected. 7) □ Claim(s) is/are objected to. 8) □ Claim(s) are subject to restriction and/	awn from consideration.	
Application Papers		
9) The specification is objected to by the Examination The drawing(s) filed on is/are: a) ac Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Examination.	cepted or b) objected to by the education of the definition of the drawing (s) be held in abeyance. Section is required if the drawing (s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).
Priority under 35 U.S.C. § 119	•	
12) Acknowledgment is made of a claim for foreig a) All b) Some * c) None of: 1. Certified copies of the priority documer 2. Certified copies of the priority documer 3. Copies of the certified copies of the priority application from the International Burea * See the attached detailed Office action for a list	nts have been received. Its have been received in Applicate ority documents have been received au (PCT Rule 17.2(a)).	ion No ed in this National Stage
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail D 5) Notice of Informal F 6) Other:	

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DETAILED ACTION

This office action is in response to the amendment filed October 20, 2005.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-2, 4-7, 9-10, and 72-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hobart et al. (Hobart) (Patent Number 5,335,242) in view of Brauer (Patent Number 5,951,543).

Regarding claims 1 and 6, Hobart discloses a cardiac laser surgery apparatus and method comprising: a sealed CO2 slab laser (e.g. 10), and a laser delivery system (e.g. See Figs. 1-20); the slab laser (10) including two narrowly spaced electrodes (36, 38) having opposed planar surfaces and a rectangular discharge region defined between the opposed planar surfaces of the two narrowly spaced electrodes (Fig. 2); a controller (e.g. 132, 134, 136) (Fig. 20) to operate the laser to provide pulses of adjustable length shorter than 100ms energy levels of between 8 and 10 Jules per pulse (e.g. See col. 10, lines 15-25) (e.g. See Figs. 14-20; col. 10, lines 40-67; cols. 11-12, lines 1-67; col. 13, lines 1-35). However Hobart fails to disclose that the laser delivery system for delivering laser pulses from said laser to a patient's heart.

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Brauer teaches that it is conventional in the art, to use a laser delivery system for delivering laser pulses from said laser to a patient's heart (e.g. See Figs. 5-6; col. 8, lines 65-67; cols. 9-10, lines 1-67).

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to use a laser delivery system for delivering laser pulses from said laser to a patient's heart of Hobart, as taught by Brauer for the purpose of delivering laser pulses to the CO2 slab laser device; so as to increase the power and efficiency of the laser slab device during laser surgery of the patient's heart.

Regarding claims 2 and 7, Brauer further discloses that the laser delivery system includes a hand piece for delivering pulses to the outside of a patient's heart to provide openings in the patient's heart for myocardial revascularization (e.g. See Figs. 5-6; col. 8, lines 65-67; cols. 9-10, lines 1-67).

Regarding claims 4 and 9, Brauer further discloses that the laser delivery system is synchronized to the heart beat to fire when the heart is electrically insensitive to reduce the chanceofarrhythmia (e.g. See Figs. 5-6; col. 10, lines 15-67; col. 11, lines 34-63).

Regarding claims 5 and 10, Brauer further discloses that the laser starts firing on the R wave and stops before the T wave (e.g. See Figs. 5-6; col. 10, lines 15-67; col. 11, lines 1-63).

Regarding claim 72, Brauer further discloses that the laser delivery system further comprises an articulated arm to deliver the laser pulses from said laser to said hand piece.

Regarding claim 73, Hobart further discloses a first and second mirrors (e.g. 26, 28, 30, 32) disposed between said opposed planar surfaces of said two narrowly spaced electrodes (e.g. See Figs. 1-3; col. 6, lines 35-62; col. 8, lines 17-67; cols. 8-9, lines 1-67; col. 10, lines 1-39).

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Regarding claim 74, Hobart further discloses a first adjustable connector affixed to the first mirror to permit angular adjustment of the first mirror with respect to a first axis and a second adjustable connector affixed to the second mirror to permit angular adjustment of the second mirror with respect to a second axis orthogonal to the first axis (e.g. See Figs. 1-3; col. 6, lines 35-62; col. 8, lines 17-67; cols. 8-9, lines 1-67; col. 10, lines 1-39).

Response to Arguments

Applicant's arguments filed October 20, 2005 have been fully considered but they are not completely persuasive. Claims 1-2, 4-7, 9-10, and 72-74 are pending.

Applicant's cooperation in explaining the claims subject matter more specific to overcome the claim rejection is also appreciated.

Applicants' s arguments with respect to claims 1-2, 4-7, 9-10, and 72-74 have been considered but are most in view of the new ground(s) of rejection as discussed above.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Examiner Binh Tran whose telephone number is (571) 272-4865. The

examiner can normally be reached on Monday-Friday from 8:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Thomas E. Denion, can be reach on (571) 272-4859. The fax phone numbers for the organization

where this application or proceeding is assigned are (571) 273-8300 for regular communications

and for After Final communications.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BT

January 06, 2006

Binh Q. Tran

Patent Examiner

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